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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-seventh session

SUMMARY RECORD OF THE 1401st MEETING

Held at the Palais des Nations, Geneva,
on Monday, 31 July 2000, at 3.p.m.

Chairman: Mr. SHERIFIS

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The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4) (continued)

Thirteenth and fourteenth periodic reports of Mauritius (CERD/C/362/Add.2; HRI/CORE/1/Add.60/Rev.1)

1. At the invitation of the Chairman, Mr. Baichoo, Mr. Boolell, Ms. Dwarka-Canabady and Ms. Young Kim Fat (Mauritius) took places at the Committee table.

2. Mr. BOOLELL (Mauritius) said he was happy to resume the dialogue with the Committee on the occasion of its consideration of his country's thirteenth and fourteenth periodic reports. At the outset he would outline the events that had taken place, and the legislative, administrative and judicial measures adopted, since the submission, in March 1999, of the report before the Committee, taking into account the concluding observations adopted by the Committee following consideration of the previous periodic report.

3. He stressed the multi-ethnic, multireligious and multicultural aspect of the State, reiterating his country's attachment to the principle of equality of rights and freedoms, and voiced his conviction that the nation's strength lay in its diversity. Thus, although the Constitution already provided that no instrument might be discriminatory or lead to discrimination, the Government had decided to draw up a fresh bill aimed at ensuring equal opportunities for all (regardless of, inter alia, handicap, race, religion or sex) in employment and training, the provision of goods and services, and the education sector. The bill would also cover the setting-up of an equal opportunities commission, mandated to promote equality and eliminate discrimination and empowered to institute relevant inquiries, and also the establishment of courts to hear complaints from aggrieved persons.

4. Pursuant to the Committee's recommendation that legislative measures should be taken to implement article 4 (b) of the Convention, the Government had promulgated a Public Security Act which provided, inter alia, that anyone who made remarks or possessed written material with intent to incite hatred or contempt for others on grounds of race, caste, origin, colour or religion would be chargeable with an offence. Although the Committee had recommended, at its forty-ninth session, that the prohibition of any discriminatory legislation, set forth in article 16 of the Mauritian Constitution, should be "extended to all matters having to do with private law", it had not been possible to follow that recommendation on account of the sensitive nature of the "Muslim Personal Law" in the multifaith society which existed in Mauritius. The Committee of Experts established in September 1998 to consider the matter had submitted an interim report to the Government, and had concluded that the introduction of the Muslim Personal Law's provisions into Mauritian law would not conflict with the obligations of Mauritius under the various international human rights instruments to which it was a party, since that Law related only to marriage, divorce and transfer of property and would apply, in any case, only to Muslims who had declared their willingness to be governed by its provisions.

5. The Committee had recommended that his Government should provide, in its next periodic report, statistical data on the composition of the population and the representation of all the ethnic and racial communities in the political and economic sectors; in that regard, a census of the island's inhabitants had been carried out and the results would be published shortly. The economic and social indicators likewise requested by the Committee would be made available to it.

6. With regard to the riots that had broken out following the death of a Creole singer while in police custody, the judge in charge of the relevant judicial inquiry would shortly be announcing his findings. The commission of inquiry, set up at the same time to determine the cause of the riots, had already submitted a report to the President of the Republic. Following the riots, a "peace initiative" had been launched with a view to promoting mutual understanding, tolerance and respect within the population.

7. The Government was well aware of the difficulty of managing a pluralist society. That was why, mindful of the constant need to promote a spirit of tolerance, mutual respect and brotherhood, it had taken positive action to promote equality of opportunity. For that purpose, it intended to eradicate discrimination at all levels, improve the living conditions of the poorest segments of the population and, in particular, increase the share of the 2001 budget earmarked for social welfare, and set up measures for social integration of vulnerable groups and house-building assistance for low-income families. In addition, in June 2000, the Minister responsible for human rights, in collaboration with the UNDP office in Mauritius, had organized a workshop on the integration of human rights with sustainable human development. Various NGOs, members of the trade-union movement and senior government officials had attended the workshop.

8. Mauritius had thought it better to defer submission of its fifteenth periodic report, taking into account the recent census and the numerous initiatives being promulgated. His Government considered that human rights issues should be the concern of society as a whole; in that context, the dynamic role of NGOs in upholding human rights in Mauritius should be noted.

9. The CHAIRMAN thanked the delegation for introducing the report of Mauritius and invited the rapporteur for Mauritius to take the floor.

10. Mr. FALL (Country Rapporteur) welcomed the high level of the delegation present. He noted that Mauritius had a long tradition of parliamentary democracy and that, since independence, elections had always been free, regular and open. Given its geographical situation, the country was a mosaic of ethnic groups and was generally regarded as having taken great strides in promoting respect for human rights. It also complied regularly with its obligations pursuant to the various relevant international legal instruments.

11. The report submitted had the merit of having been drawn up in accordance with the Committee's guidelines, but did not reply satisfactorily to all the questions the Committee had raised when considering the previous periodic report. For example, it still contained no statistics on the population's ethnic composition. Although it mentioned the setting-up of a national human rights commission, no details were given about that body's independence, operation and initial achievements. Nor was there anything about implementing the provisions of article 4 of

the Convention, even though they were binding. The statement that no case of violation of Mauritian provisions of the law prohibiting racial discrimination had been entered before any court in no way justified the lack of measures expressly prohibiting and punishing any manifestation of discrimination. The report actually showed that there had been riots of a racial nature involving confrontations between Creole groups and groups of Indian origin.

12. The forthcoming promulgation of a law on equal opportunity was to be welcomed. It was regrettable, on the other hand, that the Committee's recommendation that the prohibition of all discriminatory legislation, in accordance with article 16 of the Constitution, should be extended to all matters of private law had not been taken up by the Government, and that the findings of the committee of experts appointed to draw up recommendations on that matter were not available.

13. With regard to economic, social and cultural rights, it would be interesting to know whether the labour market tensions mentioned in the report arose among Mauritians themselves or, as everything seemed to indicate, between Mauritians and foreign workers, and to be informed of the measures taken to alleviate those tensions. In that regard, the situation of foreign workers in Mauritius had already been raised as a matter of concern by the Committee on Economic, Social and Cultural Rights and the Human Rights Committee.

14. The recent workshop on the integration of human rights with sustainable development, the setting-up of a national human rights commission, and the establishment of a committee on poverty were praiseworthy initiatives consonant with the generally accepted view that Mauritius was a State that respected human rights. It was all the more surprising, therefore, that that State should delay making the declaration provided for in article 14 of the Convention.

15. With regard to the islands of Agalega and St. Brandon, the Committee endorsed the recommendation made by the Human Rights Committee inviting the Government to take the necessary measures to safeguard the exercise of the right to vote by the inhabitants of those islands. Further information on the situation in the two islands with regard to the Convention's implementation would be welcome. Lastly, while noting that Mauritius had still not ratified the amendments to article 8, paragraph 6, of the Convention, he praised the willingness for dialogue that the Government had shown vis-à-vis the Committee.

16. Ms. ZOU said that she was pleased to engage in dialogue with the delegation of Mauritius. Referring to the Committee's recommendations made during consideration of the preceding periodic report of Mauritius, she noted that the current report did not provide the statistics requested by the Committee on ethnic and racial composition. However, such statistics were necessary, given the ethnic diversity of the Mauritian population and, the fact that there seemed to be some dissension within the population, as evidenced by the riots mentioned in paragraph 18 of the report. There were also grounds for looking into the root cause of those riots, which had occurred between Creole groups and groups of Indian origin, in order to determine whether they were the outcome of random factors or stemmed from older causes. She asked whether such conflicts often occurred.

17. With regard to the setting-up of the "committee on poverty" (paragraph 16 of the report), the Committee welcomed that initiative aimed at eradicating extreme poverty by the year 2007. As to the three pilot projects launched as part of that initiative, however, it would be useful to spell out which ethnic groups and regions were involved, what degree of poverty each group was suffering, and for what reasons. The report also stated, in paragraph 20, that an equal opportunities act would be passed in the near future with a view to preventing any inequality based on race, religion or ethnic origin. It was to be hoped that the State would be able to achieve that objective. She noted that the report contained no reference to implementation of article 5 of the Convention, dealing with political rights; it would be interesting, in that regard, to know the extent to which the various ethnic groups were represented in Parliament, in the civil service and, in particular, among senior State officials. Lastly, with regard to the right to education, dealt with in paragraphs 42-46 of the report, it was stated that education up to university level was free of charge. She would like to have further information about the universities, including their situation, number, student numbers and enrolment rates for the various ethnic and racial groups.

18. Mr. VALENCIA RODRIGUEZ noted with satisfaction that the Mauritian Government had included in its periodic report information about various measures it had taken to give effect to the recommendations the Committee had addressed to it following consideration of its previous report. For example, in 1998 the Government had set up a national human rights commission which carried out important tasks giving practical effect to article 6 of the Convention, including the authority to open inquiries on its own initiative when it received complaints from individuals about violations of their basic rights and to recommend the payment of compensation to victims. On that subject, he would like the Mauritian delegation to provide the Committee with information on instances of racial discrimination that the commission had received and considered. He also noted that the Mauritian Government had passed an act on the protection of human rights; he would like to know the scope of that act with regard to racial discrimination.

19. The setting-up, in 1997, of the presidential commission to recommend changes in the administration of justice (paragraph 8 of the report) was likewise a matter for satisfaction. He would like to know, in that connection, whether that commission had made recommendations aimed at eliminating racial discrimination and fostering tolerance, understanding and friendship among Mauritian ethnic groups, and to receive information about the specific implementation of those recommendations.

20. Likewise welcome was the judgement delivered by the Supreme Court of Mauritius to the effect that not only the Constitution but also the entire Mauritian legal system should conform to the international instruments ratified by Mauritius (paragraph 11 of the report). It would be particularly useful to know whether the Convention was one of the instruments covered by that judgement and whether it could be invoked directly before the Mauritian courts.

21. Referring to the information concerning the implementation of articles 2 - 4 of the Convention, he noted that other important bodies had been established, including an inter-ethnic and interfaith think tank to make recommendations aimed at promoting racial harmony. He

would like to know what practical results the work of that body had produced. He also wondered whether the three projects initiated by the committee on poverty set up in 1997 had led to effective steps to combat discriminatory practices.

22. The tensions between Creole and Indian groups mentioned in paragraphs 18 and 19 of the report called for constructive dialogue between the parties concerned and decisive action by the country's highest authorities. He would like the Mauritian delegation to provide information on progress in the framing of the equal opportunities act, one of whose purposes was to prevent any inequality based on race, religion or ethnic origin (para. 20). He would also like to know whether article 282 of the Mauritian Criminal Code, which made incitement to racial hatred a criminal offence, had been implemented in cases involving racial discrimination.

23. With regard to the implementation of articles 5 and 6 of the Convention, he asked whether the delegation could provide information on the recommendations made by the committee of experts set up to study ways of incorporating into Mauritian law the provisions of the Muslim Personal Law, relating to marriage, divorce and the transfer of property. Could it also state whether foreign workers (para. 28) were free to join trade unions on the same conditions as Mauritian workers? He would like to know the findings of the latest studies on housing, particularly with regard to the situation of ethnic minorities, and the measures taken or planned or envisaged by the Mauritian authorities to improve conditions for them in that sphere. He felt sure that the Committee members must have noted with satisfaction the measures the Mauritian Government had taken to promote the participation of ethnic minorities in cultural life and thereby ensure social unity and cohesion, and also the fact that the 10 local languages were represented in the national drama festival. Lastly, he thanked the Mauritian Government for the attention it had paid to the Committee's recommendations concerning the possibility of making the declaration provided for in article 14 of the Convention and ratifying the amendments to article 8, paragraph 6.

24. Mr. de GOUTTES said that, like Mr. Fall, he welcomed the positive achievements mentioned in the thirteenth and fourteenth periodic reports of Mauritius. Nevertheless, taking account of the island's specific features, including the exemplary racial and ethnic tolerance that the Committee had noted in its previous report, he was disappointed to find the information provided to be still lacking in three respects. First, contrary to the Committee's recommendation No. IV of 1973, the general recommendation of 27 August 1999 concerning article 1 of the Convention and paragraph 8 of the general guidelines relating to submission of reports, the current report contained no statistical data either on the population's ethnic and racial composition or on representation of the ethnic communities in the various spheres of national life. Secondly, the measures taken to give effect to article 4 (b) of the Convention concerning the banning of organizations which issued propaganda inciting racial discrimination seemed inadequate. It would be interesting, in that regard, to have further details on the implementation of section 282 of the Criminal Code and section 109 of the Criminal Code Act, referred to in paragraph 22 of the report. Thirdly, the report said nothing about any legal proceedings that might have been instituted relating to acts of racism. He also wondered, given Mauritius's exemplary multi-ethnic character, why the Government could not consider making the optional declaration provided for under article 14 of the Convention about the consideration of communications from individuals.

25. Mr. BRYDE endorsed the observations made by other Committee members on the frank and interesting information provided in writing or orally by the Mauritian Government. He, too, acknowledged the exemplary nature of the multicultural and multi-ethnic society of Mauritius, which was renowned for the peace and harmony that reigned among the country's many communities. He nevertheless deplored the recent inter-ethnic incidents mentioned in paragraph 18 of the report, since they were doubtless not isolated incidents but a sign of latent conflict situations that the Mauritian authorities should take seriously and handle effectively. Given the lack of precise statistics on the ethnic composition of the Mauritian population, the State party could provide some general information on that point, as well as information on the current correlation between the population's ethnic and cultural composition, on the one hand, and the economic and social stratification and distribution of political power, on the other. And he would also appreciate it if the delegation would let the Committee know the preliminary findings of the presidential commission of inquiry, so as to give the Committee a clearer idea of the Convention's implementation in Mauritius.

26. Mr. PILLAI considered that the ethnic and cultural diversity of Mauritian society, unique of its kind, was an asset that should be taken into account in tackling the problems of the marginalization of certain communities and other emergent problems. In his view, the Government could indeed manage without precise demographic data in performing certain functions such as maintaining order, but it would surely need them if it was going to succeed in carrying out the major programmes set up to combat poverty and marginalization. He noted with satisfaction that the Government had taken a number of positive steps, including the setting-up of a human rights commission, and hoped to establish further bodies for the protection of human rights. The Government should also consider awareness training for public officials, particularly those employed in the administration of criminal justice, concerning matters relating to the safeguarding of human rights.

27. Mr. BOSSUYT said he fully shared the previous speakers' observations about the exemplary nature of Mauritian society, marked by multiculturalism and multilingualism, a fact which represented a particularly interesting experience for the Committee. In that regard, he would appreciate information on the official status of the 10 languages spoken in Mauritius. He would also like to know the outcome of the work of the many bodies set up recently, including the national human rights commission, and asked the delegation to provide further information on the ethnic riots of February 1999, including the root causes and origins of the incidents.

28. The Mauritian delegation had stated orally that the incorporation of the Muslim Personal Law into Mauritian legislation had raised a number of problems; he wondered what those problems were. The fact that the Law in question, which related to marriage, divorce and property transfer, would apply only to Muslims who accepted it, did not, in his view, dispel the risk of problems, arising from the incorporation of that Law, for the protection of human rights as set forth in the Convention.

29. He was surprised to note that the statistics on the number of male foreign workers recorded in Mauritius for the period 1995-1997 showed a reduction, whereas the number of female foreign workers had increased during the same period. He wished to know the reason for

those contrasting trends. He also noted, from paragraph 52 of the report, that foreigners enjoyed all services intended for the public on an equal footing. He wondered whether foreigners benefited likewise from the free medical care mentioned in paragraph 39 on the same conditions as Mauritian citizens.

30. He would welcome an explanation of the catchment-area system, mentioned in paragraph 43, for admission to primary schools. He also noted, from the oral statement, that subsection 2 of the new Public Security Act made it a criminal offence for a person to possess, "without any lawful excuse", any written or electronically recorded material tending to incite racial hatred; he requested the delegation to explain the exact meaning of "lawful excuse".

31. Mr. ABOUL-NASR said that he did not fully share the views expressed by other Committee members. He noted that the Committee's practice of requesting States parties to submit statistics on their population's composition reflected not an obligation set forth in the Convention, but merely a desire since such numerical information simplified the Committee's work. It was entirely up to the States parties, therefore, to accede, or not to accede to that request. Nor did he share the reasoning that the quite exemplary multi-ethnic situation prevailing in Mauritius ought to prompt the State party to make the declaration provided in article 14 of the Convention, which, he stressed, was optional. He saw a parallel, in that regard, with article 11 of the Convention, aimed at bringing, to the Committee's attention the failure of another State party to give effect to the Convention's provisions - a requirement likewise optional but hitherto never invoked by a State party, although such situations were not lacking. Perhaps the delegation of Mauritius would like to make its own comments in that regard.

32. He was surprised to note that the delegation of Mauritius had stated, in its oral presentation, that the Mauritian authorities, in order to give effect to the Committee's previous recommendations, envisaged that the provisions of the Muslim Personal Law relating to marriage, divorce and property transfer would apply only to Muslims who expressly declared acceptance of it. He wondered whether such a provision would discriminate against Muslims as opposed to adherents of other religions who did not have to make a similar declaration. He also wondered whether the Committee's recommendation itself, which had focused on practices of Islamic law, had not been discriminatory in view of certain practices in other religions, perhaps just as questionable, relating to marriage and divorce.

33. Mr. NOBEL endorsed the comments made by the other Committee members. He felt that Mr. Aboul-Nasr had made a valid point in saying that Committee members should refrain from demanding statistics from States parties on their population's ethnic composition; there should be some flexibility in that regard. He would like to know under what conditions the Muslim Personal Law might be applied in the case of mixed marriages between Muslims and non-Muslims.

The meeting was suspended at 4.35 p.m. and resumed at 4.55 p.m.

34. Mr. BOOLELL (Mauritius) said that, in line with the recommendations made by the Committee in 1996 when it had considered the previous periodic report, Mauritius currently had specific legislation in conformity with article 4 of the Convention. Parliament had recently adopted a State Security Act, a copy of which would be transmitted to the Committee as soon as

possible. Under section 8 of that Act relating to incitement to racial provocation, any physical or legal person who, through his behaviour or words, incited hatred based on religion, race, ethnic origin or colour was liable to three year's imprisonment. Moreover, section 282 of the Mauritian Criminal Code categorized incitement to racial hatred as a criminal offence, and section 109 applied to any act committed with intent to incite racial hatred.

35. With reference to Mr. Bossuyt's question about the offence of possessing, without any lawful excuse, electronically recorded material or documents tending to arouse racial hatred, he explained that the term "without any lawful excuse" was a provision which had been introduced in order to safeguard the presumption of innocence and, in particular, to cover cases where a person suspected of an offence might have been the unwitting bearer of such material.

36. With regard to the exercise of the right to vote in the islands of Agalega and St. Brandon, he said that the National Electoral Bureau had taken steps to enable the inhabitants of both islands to participate fully and freely in general elections. In no instance had the inhabitants of Agalega and St. Brandon been denied exercise of the right to vote.

37. Concerning the report's lack of statistical data on the population's ethnic and racial composition, he explained that the census carried out in June 2000 had not been aimed at obtaining information of that sort, since his Government had shown a clear preference for a policy of assimilation and the creation of a Mauritian identity. That was not to say that the recommendations made by the Committee in that regard on the occasion of its consideration of the previous report of Mauritius, had not been heeded. The latest census had taken into account the composition of households and had even included a question aimed at determining the ancestral language of the individual households. His Government would transmit the data to the Committee as soon as they had been analysed. His delegation did, however, have socio-economic statistics, compiled in 1999, which had been provided to the Committee members.

38. Referring to the tragic death, in February 1999, of a famous popular singer in a Mauritian police station cell, he said that an inquiry had been opened immediately after the death in order to determine the exact circumstances. The Attorney-General, whose powers and independence were guaranteed and protected by the Mauritian Constitution, had been put in charge of the inquiry, which was proceeding. In addition, a commission of inquiry had been set up to look into the causes of the riots that had broken out following the singer's death; it had not yet completed its work, but the Government would transmit the inquiry's findings to the Committee as soon as they were available.

39. Although his country had traditionally been viewed as a "living multifaith and multi-ethnic laboratory", the Mauritian authorities fully realized how delicate the situation was. The singer's tragic death and the ensuing riots had made the population and its representatives aware that nothing could last forever. A number of plans and programmes had accordingly been drawn up and implemented, with the President's active support, in order to preserve harmony among the population groups as far as possible and to promote tolerance. It had become clear that all inhabitants had a role to play in preserving the country's harmony and stability. To that end, the previous week, the President had launched an "initiative for peace and tolerance", in which all components of civil society, including NGOs, had been invited to take part.

40. Human rights in general formed part of police training courses. Future police officers also received training in the provisions of the Mauritian Constitution and in respect for fundamental freedoms, particularly as they affected the rules applicable to the arrest and detention of suspects. Any violation of those rights could result in cases being brought to court and even, in cases of suspected violation of the basic rights set forth in article 5 of the Convention, in referral to the Supreme Court of Mauritius. In addition, the University's Department of Social and Legal Sciences offered a course focusing on human rights, and more particularly the Convention.

41. The CHAIRMAN thanked the delegation of Mauritius for the information it had provided and announced that it would reply to the other questions raised at the Committee's next meeting.

The meeting rose at 5.30 p.m.